

STATE ARCHIVES AND RECORDS COMMISSION
Minutes of the Quarterly Meeting
March 9, 2006
Department for Libraries and Archives

The State Archives and Records Commission met at 10:00 a.m., Thursday, March 9, 2006, in the Board Room, Kentucky Department for Libraries and Archives (KDLA), 300 Coffee Tree Road, Frankfort, Kentucky.

Members present: James A. Nelson, Chairman; Sandra McAninch, representing the Kentucky Library Association; Jennifer Gregory, representing regional colleges and universities; Emily Dennis, representing Citizens-at-Large; Sarah K. M. Adams, representing Citizens-at-Large.

Representatives present: Tim Harmon representing Virginia G. Fox, Secretary, Education Cabinet; Brandon Haynes, representing Joseph E. Lambert, Chief Justice, Supreme Court; Amye Bensenhaver, representing Gregory D. Stumbo, Attorney General; Bryan Lykins, representing Crit Luallen, Auditor of Public Accounts; Leslie Smith, representing Robert Sherman, Director, Legislative Research Commission; Charles Robb, representing Michael Inman, Commissioner of Technology; and Glenna Mays, representing Brad Cowgill, State Budget Director.

Members not present or represented: James Kastner, representing the Kentucky Historical Society; Terry Birdwhistell, representing the University of Kentucky; and Dean Johnson representing local governments.

Public Records Division staff present: Richard N. Belding, Director, Public Records Division; Barbara Teague, Manager, Archival Services Branch; Jerry Carlton, Manager, Local Records Branch; Glen McAninch, Manager, Technology Analysis and Support Branch; Jim Cundy, Manager, State Records Branch; Mark Myers, Electronic Records Specialist; Pamela Burris, Records Analyst; Thomas Getman, Records Analyst; Connie Renfroe, Administrative Specialist.

Guests present: Scott Porter, counsel for the Department for Libraries and Archives; Morgan Ransdell, counsel for the Commission on Human Rights; Michelle Harrison, Office of the Attorney General; and Steve Ramey, Administrative Office of the Courts.

Nelson called for introductions by those present.

Ms. Smith made a motion to accept the minutes of the previous Commission meeting, seconded by Mr. Haynes. The vote by members and representatives present was unanimous.

NEW OR REVISED RECORDS RETENTION SCHEDULES

Court of Justice

Cundy presented this new retention schedule, issued by the Administrative Office of the Courts. **Additions to the Schedule:** *Part I: Pre-1978 Records:* None; for additions to the Kentucky Court of Justice Records Retention Schedule, *Part II: Post-1977 Records* (dated 29 August 2005), please see page two of that retention schedule. **Revisions to the Schedule:** *Part I: Pre-1978 Records:* The following series have undergone changes in disposition to reflect the transfer of records to the State Archives rather than maintenance of records by the court: Series 02166, Judge's Correspondence File; Series 02168, Order Books; Series 02169, Docket Books; Series 02173, Case Files; Series 02174, General Index to Cases; Series 02175, Transcripts of Appealed Cases; Series 02176, Grand Jury Indictments; Series 02177, Index to Indictments; Series 02178, Coroner's Inquests; Series 02179, Minute Books; and Series 02181, Record of Probation Book. The series number for Series 03345, Driver License, was formerly 02245. For Series 02265, Notice of Commissioner's Sale, the disposition instructions have changed from "Appraise by the State Archivist for permanent retention. Non-essential records may then be destroyed if two years old, with written approval of the State Archivist" to "Appraised by the AOC Records Officer for permanent retention. Non-essential records may then be destroyed." For Series 02339, Juvenile Court Cases, the disposition instructions have changed from "Retain paternity cases permanently or transfer to the State Archives Center. Destroy all other juvenile cases when child is twenty-three years of age" to "Transfer paternity cases to the State Archives Center. Destroy all other juvenile cases." For Series 02343, Adult Division Cases, the disposition instructions have changed from "Retain paternity cases permanently or transfer to the State Archives Center. Destroy all other cases when child is twenty-three years of age. Note: A copy of the Card Index (02344) and Order Books (02345) must accompany cases when transferred to the State Archives Center" to "Transfer paternity cases to the State Archives Center. Destroy all other cases. Note: A copy of the Card Index (02344) and Order Books (02345) must accompany cases when transferred to the State Archives Center." For Series 02347, Adult Division Dockets, the disposition instructions have changed from "Retain where Order Book or Case Files do not exist, or when Dockets are an essential link in locating Case File and Order Book references. Destroy remainder" to "Transfer to the State Archives Center when Order Books or Case Files do not exist, or when Dockets are an essential link in locating Case File and Order Book references. Destroy remainder." For additions to the Kentucky Court of Justice Records Retention Schedule, *Part II: Post-1977 Records* (dated 29 August 2005), please see pages one and two of that retention schedule. **Deletions from the Schedule:** *Part I: Pre-1978:* None; for closed series and deletions from the Kentucky Court of Justice Records Retention Schedule, *Part II: Post-1977 Records* (dated 29 August 2005), please see page three of that retention schedule.

For a summary of the various Pre-1978 and Post-1977 courts in the Kentucky Court System, please see page one of the Kentucky Court of Justice Records Retention Schedule, Part I: Pre-1978 Records (dated 9 February 2006); and page four of the Kentucky Court of Justice Records Retention Schedule, Part II: Post-1977 Records (dated 29 August 2005).

Nelson noted that, while there is a standard procedure for the development and approval of state agency records retention schedules, the Court of Justice (COJ) does have statutory and

Constitutional authority to oversee retention and disposition of its records. To that end, they have recently developed and disseminated for use their own retention schedules for pre-1978 and post-1977 materials, without input from the department or the commission. He noted that the relationship between COJ and the department had been friendly and constructive in the past and that he hoped it would continue to be as COJ continues to transfer records twenty-five years or older.

Nelson said that the schedule had been discussed at the March 2, 2006, meeting of the Advisory Committee on Archives and Records Management to the Commission. Cundy said that the main concern at the meeting was that the future management of COJ records should continue to take place as a joint venture between that organization and the department. Cundy recognized Mr. Haynes, who recognized Mr. Ramey. Ramey noted the AOC has been reviewing the retention schedules for several years, and made disposition changes to several series. He said that there were numerous series with retention periods that were no longer in compliance with requirements of the Kentucky Revised Statutes. Changes were made only to non-permanent records. Series 00811, Criminal Complaint File, was deleted because it was not felt to be a record of the Circuit Clerk's Office, but rather of the County Attorney's Office. Series 03067, Vehicle Exhaust Testing File; Series 03068, Vehicle Exhaust Testing Docket File; and Series 03069, Vehicle Exhaust Testing Compliance File, were closed because the Vehicle Emissions Testing Program had been discontinued. Two series were added: Series 05473, Felony Hearing Grand Jury Files, and Series 05474, Depositions were added to the Post-1977 Records Retention Schedule. He said that the Chief Justice had issued orders deleting the 1997 Court of Justice Records Retention Schedule – Part I: Pre 1978 Records in its entirety and replacing it with the Court of Justice Records Retention Schedule – Part I: Pre 1978 records attached to the Order; and deleting the 1997 Court of Justice Records Retention Schedule – Part II: Post 1977 Records in its entirety and replacing it with the Court of Justice Records Retention Schedule – Part II: Post 1977. These orders had been issued on February 9, 2006 and August 29, 2005 respectively. He hoped that the working relationship between COJ and the department would continue and that COJ would be receptive to advice from the department.

Belding noted that there had been concern expressed at the Advisory Committee Meeting that something of value would be lost if COJ did not participate in the review process to obtain multiple perspectives on the retention and disposition of various records so that the most effective schedule possible could be produced. The concern was that, while COJ might listen to advice, there was no sense that that body would be willing to implement those recommendations. This meant that the schedule, which bore the name of the department, division and the commission, would have had no meaningful, active involvement from any of those bodies. Haynes responded that there is a respect at COJ for the expertise of department staff and commission members, and that input from them would be treated with appropriate regard. He noted that the desire on the part of the COJ to control their records more strictly than had previously been the case is a long-standing one that has deep historical and philosophical roots. There is nothing intended to offend anyone in these efforts on COJ's part.

Nelson said that, while the commission acknowledged the COJ's statutory authority and separation as a branch of government, the members' issue is with the lack of a role for the commission. Without the formal review procedure, the commission could not take action on the schedule.

In response to a question by Ms. Bensenhaver, Ramey said that the changes resulted from changes to statutes, and that few series were added or changed except to bring the schedule in line with accepted practice or changes to statutes. Bensenhaver noted that this was the first time in recent memory that this had occurred without the commission's input. Nelson noted this meant that the multifaceted perspective available in the review process would be lost, and that the commission still had to determine how to respond to this action.

Ms. Dennis asked why this had been brought before the commission if the authority over its records rested with the COJ. Cundy noted that issue had arisen at the Advisory Meeting and that one option would be to acknowledge receipt of the retention schedule and move no further.

Carlton said that there would be practical issues involved in changes in retention periods if the department had to provide service related to those records. This means that the department would need to be kept apprised on developments. Myers noted that the practical considerations applied equally to records in electronic format. Haynes agreed and said that a spirit of comity would continue to prevail, and that the service relationship between the COJ and the department would still exist. He said that acting in comity for the commission would mean approving the schedules as submitted. Nelson suggested that body would need more review time.

In response to a question by Belding, Haynes said that revision and issuance of COJ records retention schedules would be preceded by continuous feedback from the department and discussion among staff at both organizations. He also said that the commission should be a part of that process.

In response to a question by Carlton, Ramey said that COJ staff does consider the intrinsic or historical value of selected records. Teague noted that this represented the value of including the department, particularly the State Archivist, in the process. The State Archivist would take a wider view of the nature or importance of selected records than a Records Officer or most other staff would be likely to.

Chair Nelson suggested that the commission delay action until the relationship among the department, the commission and COJ could be clarified for commission members.

Ms. Smith made a motion to acknowledge receipt of the Order by Chief Justice Lambert dated February 9, 2006, deleting the 1997 Court of Justice Records Retention Schedule – Part I: Pre 1978 Records in its entirety and replacing it with the Court of Justice Records Retention Schedule – Part I: Pre 1978 records attached to the Order; and the Order by Chief Justice Lambert dated August 29, 2005, deleting the 1997 Court of Justice Records Retention Schedule – Part II: Post 1977 Records in its entirety and replacing it with the Court of Justice Records Retention Schedule – Part II: Post 1977 records attached to the Order and to table further discussion until the June 8, 2006 meeting of the commission, seconded by Ms. Bensenhaver. The vote by members and

vote by members and representatives present was unanimous except for Mr. Haynes, who voted in the negative.

Board of Nursing

Burris was the records analyst working on this retention schedule revision. This is a complete revision of the Retention Schedule for the Board of Nursing. **Additions to the Schedule:** Series 05458, Nomination Form for Dialysis Technician Advisory Council, Kentucky Board of Nursing; Series 05459, Prelicensure Nursing Program Nurse Faculty/Clinical Instructor Record; Series 05460, Advisory Opinion Statements Folder; Series 05461, Dialysis Technician Credential-Renewal Application; Series 05462, Dialysis Technician Credential-Reinstatement Application File; Series 05463, Dialysis Technician-Incomplete Applications; Series 05464, Dialysis Technician Credential Reissue Request Form; Series 05465, Dialysis Technician Change of Address Form; Series 05466, Dialysis Technician Training Program-Initial Application File; Series 05467, Dialysis Technician Training Program-Continued Approval Files; Series 05468, Dialysis Technician Training Program - Reinstatement Files; Series 05469, Dialysis Technician Training Program List of Graduates; Series 05470, Dialysis Technician Initial Credential Application; Series 05471, Refresher Course Renewal Application File; and Series 05472, Kentucky Alternative Recovery Effort (KARE) Program Participant Folder.

Revisions to the Schedule: Series 00760, Reinstatement Application File, change in retention from 10 years to 5 years; Series 00761, Change of Licensure Status Application File, change in retention from 10 years to 3 years; Series 00774, Pass Rates, change in retention from 5 years to 10 years; Series 00775, Application for Provider Approval File, change in retention from Permanent to Indefinite – Destroy 5 years after provider non-renewal; Series 00777, Refresher Course Approval Application File, change in retention from Indefinite – Destroy when refresher course is no longer offered to Indefinite – Destroy five years after refresher course is no longer offered.

The following series do not represent a change in retention or disposition. Rather, they represent several minor changes to the series, most significantly clarification of the function and use of the series: Series 00752, Reissue of License Request File; Series 00759, License Renewal Application File; Series 00764, Certified List - Registered Nurse/Licensed Practical Nurse; Series 00768, Incomplete Applications for Licensure; Series 00773, Annual Report from Approved Nursing Programs; Series 00776, Provider Renewal Application File; Series 00779, Individual Request for Review of CE Activity; Series 00796, Investigative Folders; Series 00797, Hearing Transcripts; Series 03066, Source Document; Series 04213, Approved Scholarship Application File; Series 04214, Ineligible Scholarship Application File; Series 04215, Nursing Incentive Scholarship Fund Data Base (NISF); Series 04248, Attorney's Court Case File; Series 04976, Master Folder-Sexual Assault Nurse Examiner; and Series 04979, Sexual Assault Nurse Examiner Program Documentation File.

The following records series are closed: Series 00758, Register List; Series 00763, Registration Books - National Council Licensure Examination (NCLEX) for Registered Nurse and Licensed Practical Nurse; Series 00765, Register List; Series 00766, Register List - New Licensees by Examination; Series 00783, Registration Book/List; Series 00784, Request for Letter of

Verification of Advanced Registered Nurse Practitioner Registration in Kentucky; Series 00786, Renewal Application - Advanced Registered Nurse Practitioner; Series 00787, Verification Report; Series 00792, Credentials Report; Series 00793, Investigations Alert Verification Report File (now part of Series 00794, Investigative and Disciplinary Report); Series 00795, Monthly Inter-Office Report – Investigations (now part of Series 00794, Investigative and Disciplinary Report); Series 04398, Continuing Education Audit File; Series 04977, Reinstatement Credential File; and Series 04978, Renewal Application File.

Deletions from the Schedule: Series 00769, Student Cards.

The Kentucky Board of Nursing, as presently constituted, was established in 1966. It is a sixteen-member board. Each member is appointed by the Governor for a four-year term. The board is responsible for licensing practical nurses and registered nurses, and for credentialing advanced registered nurse practitioners, sexual assault nurse examiners, and dialysis technicians. To that end, it also investigates complaints against nurses. It is also responsible for the approval of nursing education programs and continuing education and competency programs. The board's executive office has four branches: Professional Support, Credentials, Consumer Protection and Agency Support. The board also maintains several advisory bodies.

Burris discussed the changes in retention to series 00760, Reinstatement Application File; 00761, Change of Licensure Status Application File; and 00777, Refresher Course Approval Application File. She noted that the Board of Nursing stopped producing the closed series, 00769, Student Cards, after 1981 and there was currently no one on staff at the board who had any familiarity with those records.

Ms. McAninch made a motion to adopt the schedule additions, seconded by Mr. Lykins. The vote by the members and representatives present was unanimous.

Justice and Public Safety Cabinet – DEPARTMENT OF CORRECTIONS

Burris was the records analyst working on these additions. **Additions to the Schedule:** Series 05454, Sex Offender File; Series 05455, Sex Offender Risk Assessment (S.O.R.A.) Files; Series 05456, Inmate Mail Logs; and Series 05457, Inmate Drug Testing Logs.

The Department of Corrections, which is governed by KRS Chapters 196 and 197, is responsible for managing the daily operations of the state correctional institutions and a variety of community-based services. Its mission is to provide secure, humane incarceration for felony offenders, professional probation and parole supervision, and an opportunity for offenders to acquire skills that facilitate non-criminal behavior. The Department operates twelve adult correctional institutions and oversees three private prisons, with a combined maximum capacity of about 11,127 inmates. The Department administers provisions of KRS Chapter 441 relating to jail standards, training of jailers and jail personnel, and jail planning and construction, and may contract with a county fiscal court or local or regional correctional authority to house misdemeanants and persons awaiting trial or sentencing.

Burris said that her awareness of Series 05454, Sex Offender File and 05455, Sex Offender Risk Assessment File, arose from her work on Series 05451, Sex Offender Files for the Kentucky State Police. She noted that the retention period of each series is linked to the required registration period of the individual offender. Series 05457, Inmate Drug Testing Logs, represented the random selection of inmates for testing and would be retained three years. Series 05456, Inmate Mail Logs, represent logs of incoming and outgoing inmate mail and would be retained for two years.

Ms. Dennis made a motion to adopt the schedule additions, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

Personnel Cabinet – OFFICE FOR EMPLOYEE AND ORGANIZATIONAL DEVELOPMENT

Getman was the Records Analyst working on this addition. **Additions to the Schedule:** Series 05446, Training Participant Folders -- Certified Public Managers Program

The Office for Employee & Organizational Development (OEOD) was created as the Office of Governmental Services Center. OEOD develops, approves and implements all training, employee development, and related programs conducted for state agencies. This includes career development programs for managerial, technical and clinical employees, as well as job-related training in management, data processing, technical and clerical subjects. The Office is also responsible for coordinating and implementing employment performance evaluation systems throughout state government. OEOD consists of the following branches: the Consulting and Learning Services Branch, the Administrative Services Branch, and the Performance Management Branch.

Getman noted that this series represents documentation of participant participation in a nationally certified program for the training of public employees. He said that these files are primarily administrative rather than academic. The retention meets recommendations of the national public employees certification organization. In response to a question by Nelson, he said that, while current participants would be given an opportunity to complete their work, new participation in the program would be suspended until it could be revised administratively.

Cundy said that a record of completion would exist in the employee's personnel folder and that the office maintains a database of program participants, from which a certificate of completion can be generated if necessary.

Ms. Smith made a motion to adopt the schedule additions, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

Commission on Human Rights

Burris was the records analyst working on this revision. **Revisions to the Schedule:** Series 01356, Case File from Permanent to Indefinite, Retain original complaint and Case Recommendation and Closing form or final order permanently. Destroy balance of file 5 years after case closure.

after case closure. Transfer to State Archives or State Records Center two years after case closure.

The Kentucky Commission on Human Rights was created in 1960 as an administrative body attached to the Governor's Office, with its eleven members appointed by the Governor for three-year terms. Its duties include encouraging fair treatment and understanding of minorities through its research, publication of reports, cooperating with public and private organizations to discourage discrimination, and making recommendations on eliminating discrimination. The commission also educates public and private persons and entities subject to various federal and state civil rights laws and assists them in complying with the law, and serves to inform individuals of their rights under those laws. The commission also enforces the Kentucky Civil Rights Act (KRS Chapter 344), receiving, initiating, investigating, seeking to conciliate, holding hearings on, and deciding complaints alleging violations of the act.

Burris said that this change in disposition would allow weeding of the commission's case files while materials documenting decision-making processes and decisions themselves would be maintained permanently. Mr. Ransdell indicated that when the commission investigates an allegation of discrimination, staff will routinely look for comparable circumstances where someone who is not in a protected class might have received more favorable treatment. This could involve applications and personnel files of all the people hired in that position for a period of years. This results in a voluminous file of documents at which point staff has to inspect, looking for equivalent qualifications. These documents stay in the investigative file, but few have significant relevance in the actual disposition of the case. Should any documents be used in an administrative hearing case, in cases for which probable cause is found, these documents will be retained. This change represents mainly cases in which there is no probable cause found. The statute of limitations for private causes of actions under the Kentucky Civil Rights Act is currently five years, allowing any relevant materials from these files to be utilized if necessary.

In response to a question by Haynes, Ransdell noted that there is a confidentiality provision built into the Human Rights Commission's enabling statutes.

Ms. McAninch made a motion to adopt the schedule additions, seconded by Mr. Haynes. The vote by the members and representatives present was unanimous.

Lexington/Fayette Urban-County Government – Public Safety – Police Department

Carlton was the Records Analyst working on this schedule addition. **Additions to the Schedule:** L5845, Felony Investigation Case File (Homicide). **Revisions to the Schedule:** L5832, Crime Stoppers Informant File, change in retention from 2 years to 4 years.

The Lexington/Fayette Urban County Government (LFUCG) Records Retention Schedule was approved by the Archives and Records Commission in 2004. The police department section of this schedule was completed first in 1999 and incorporated into the LFUCG retention schedule in 2004. The LFUCG retention schedule includes all departments and agencies within merged government.

Carlton noted that Series L5845, Felony Investigation Case File (Homicide), is being separated from other felony investigation case files, which are maintained for eighty years, to be retained permanently. He also said that Series L5832, Crime Stoppers Informant File, had been approved by the commission previously with a two-year retention. Upon reflection, LFUCG personnel requested a four-year retention.

Mr. Haynes made a motion to adopt the schedule additions, seconded by Mr. Lykins. The vote by the members and representatives present was unanimous.

Education Cabinet – DEPARTMENT FOR LIBRARIES AND ARCHIVES

Cundy was the Records Analyst working on this change. **Revisions to the Schedule:** Series 00648, Researcher Registration Form, change in retention from 3 years to 5 years.

The Department for Libraries and Archives addresses the state's information and knowledge needs by initiating and directing statewide activities for library and archives development and for public records management. In 1990, it was directed to establish a clearinghouse for information on Kentucky authors, including a statewide index of works and collections held by libraries in Kentucky. The State Archives and Records Commission is a seventeen-member body that advises the Department on matters relating to archives and records management, including the destruction of records (KRS 171.420). Four divisions administer the Department's programs: Field Services, State Library Services, Public Records and Administrative Services.

Cundy noted that this change was prompted by the suspected use of information obtained from public records in the department's Research Room for identity theft purposes.

Ms. Smith made a motion to adopt the schedule additions, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

Governor's Office for Local Development

Getman was the Records Analyst working on these revisions and additions. **Additions to the Schedule:** Series 05406, Legal Case Files; Series 05407, County Officials Training Incentive Program Files. **Revisions to the Schedule:** Series 00556, County Budget File, change in retention from Permanent to 20 years. Series 04732, Community Development Block Grant Program Files, change in retention from Indefinite – Transfer to State Records Center one year after grant year close out – Destroy after audit, to Indefinite – Transfer to State Records Center upon project activity close out – Destroy five years after federal Grant year close out and audit; and Series 00553, County Bond and Lease Issues Project File, do not represent changes in retention or disposition. Rather, they represent several minor changes to the series, most significantly clarification of the function and use of the series. **Deletions from the Schedule:** Series 04735, Section 107 Technical Assistance Grant File.

The Governor's Office for Local Development, formerly the Department for Local Government, provides financial help in the way of grant and loan assistance, as well as advising local governments in matters of budget, personnel and other items relevant to those entities. These

include procurement, financial management, property tax rates, community revitalization or economic development, training of officials and intergovernmental relations between the commonwealth and the federal government. Subunits of the office include the Office of Financial Management and Administration, the Office of Grants, the Community Development Office, the Kentucky State Clearinghouse, the County Officials Training Program, Renaissance on Main, and the Kentucky Infrastructure Authority.

Getman noted that Series 05406, Legal Case Files, are produced by the office's staff attorney, who may advise local governments in addition to handling legal matters for the office. These are not litigation files, but are mainly composed of correspondence. Series 05407, County Officials Training Incentive Program Files, represents documentation that local officials have received the appropriate amount of required training. He said that the permanent record of the budget file is maintained permanently in the county, so that permanent retention by GOLD of Series 00556, County Budget File, is unnecessary. He said that the retention of Series 04732, Community Development Block Grant Program Files, is contingent on the closing out of grant years by Housing and Urban Development, and that the last grant year that had been closed out was in the 1980s. Series 04735, Section 107 Technical Assistance Grant File, which is being deleted, represents dollars that had been received from the federal Department of Housing and Urban Development to train people to apply for and to administer grants. The program was closed in 1990.

Ms. Adams questioned the logic behind retaining correspondence as part of 05406, Legal Case Files, for ten years, given that the focus is on the final action of the agency. Cundy responded that often, correspondence becomes part of a larger file that has a longer retention attached to it than the generally-accepted two-year retention of general correspondence. In this situation, the agency would maintain the correspondence for a longer period of time than is generally accepted. Bensenhaver noted that the file is less a litigation file and more in the nature of a research file, so that retaining the correspondence would be desirable for future reference. Adams wondered if agency staff would be as interested in the logic behind a final action as in the final action itself. Cundy thought that was precisely what the agency wanted in this case. Getman said that the purpose of the files is to be able to advise agencies subsequent to a given case.

Adams wondered if these records would be accessible to the public. Belding noted that the records would be stored at the State Records Center and available through the agency. While the materials would be subject to open records requests, the records would be presented to and managed through the agency. Dennis noted that whether records would be subject to public scrutiny would therefore depend to a certain degree on the agency's attorney. She noted the utility for agency business and legal matters of being able to uncover the history of an agency's activities.

A lengthy discussion ensued on the nature and uses of correspondence in paper and electronic formats. Lykins noted that in the public sector, agencies strive for transparency and openness and hold a greater concern for the reasoning behind decisions that are made.

Ms. Smith made a motion to adopt the schedule additions, seconded by Mr. Haynes. The vote by the members and representatives present was unanimous.

Local Government General Records Retention Schedule – Public Safety – Law Enforcement/Risk Management

Carlton was the records analyst working on these schedule additions. **Additions to the Schedule:** Public Safety – Law Enforcement: Series L5846, Felony Investigation Case File (Homicide); Risk Management: Series L5847, Insurance Claims File (Liability General and Auto); and Series L5848, Insurance Claims File (Non-Liability General and Auto).

The Local Government General Records Retention Schedule may be used by all local public agencies in the Commonwealth. Examples are county governments, municipal governments, merged governments, schools, and all agencies within local governments. The issuance of this retention schedule in 1999 was prompted by a need to assemble those records that every local government agency may create or receive in the course of business.

After explaining the nature of the Local Government General Records Retention Schedule, Carlton noted that the addition of Series L5846, Felony Investigation Case File (Homicide) paralleled the addition of the same series to the LFUCG schedule, and that Series L5847, Insurance Claims File (Liability General and Auto), and Series L5848, Insurance Claims File (Non-Liability General and Auto) were already on the LFUCG schedule. He added to the series a confidentiality citation that had been suggested by Bensenhaver.

Mr. Haynes made a motion to adopt the schedule additions, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

Public School District Records Retention Schedule – Student Records

Carlton was the records analyst working on this schedule addition: **Additions to the Schedule:** L5844, Test Protocols (Special Education Student).

The first attempt to assemble a school district – wide records retention schedule was made in 1988. The Archives and Records Commission approved this schedule that year. In 1999, a complete revision of the schedule was approved by the Commission. This schedule included K through 12 and the school district central office in one schedule. In March 2003, the Commission again approved a revision of the entire schedule. The 176 school districts in the Commonwealth produce an overwhelming quantity of paper records. With the emergence of electronic recordkeeping and data management, this retention schedule has proved to be an invaluable records management tool. KDLA staff has given presentations throughout the Commonwealth on how to use this retention schedule as a foundation for the implementation of district-wide records management programs.

Carlton said that this series came to his attention through the Kentucky School Boards Association. At the Advisory Meeting, Bensenhaver had questioned the disposition instructions on this series and requested clarity on the phrase “after last activity.” Carlton changed in the disposition instructions to read “Retain at agency 3 years – Destroy after notification of student and parent or guardian.” This is the same as for Special Education Due Process Folders.

Mr. Haynes made a motion to adopt the schedule additions, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

General Schedule for State Agencies – Miscellaneous Records

Cundy was the Records Analyst presenting this schedule change. **Revisions to the Schedule:** Series M0002, General Correspondence, change in retention from Retain no longer than two years to two years.

A General Schedule is a class of records retention schedule which governs the retention and disposition of specified records common to several or all public agencies. The General Schedule for State Agencies covers records for State Agencies. This submission represents part of the continuing effort to update the General Schedule for State Agencies.

Cundy noted that the purposes behind this change are to clarify the current disposition instructions and to note the greater prominence of e-mail as a correspondence medium.

Myers noted that, according to best practices and Kentucky's public-records-related statutes, records are format neutral. E-mail, as documentary evidence of agency business, would generally be considered correspondence. This confusion regarding the disposition arose recently in the Electronic Records Working Group. In addition to the retention and disposition, revisions were made to clarify the definition of general correspondence. Series M0001, Official Correspondence, and Series M0018, Reference and Informational Material, will also be revised along lines similar to these. The effort to reference e-mail in the record description reflects the changed nature of correspondence. What may have once been a telephone conversation is now often recorded in an electronic format. Dennis said this means agency staff should be careful about what they write in e-mail and other forms of digital communication. Myers said that instruction to state and local government officials and staff includes the use of e-mail in addition to its retention and management. Belding said that public employees had been kept informed regarding the nature and use of e-mail through policies issued by the Commonwealth Office for Technology (COT). Lykins said that these policies emphasized that the employee has no expectation of privacy despite the sensitive nature of what the employee may have written. Robb added that if the employee has sensitive material in his or her e-mail, that it should be deleted, and that it is the user's responsibility to do so.

Robb noted the implications of the change in disposition for storage concerns. He felt that the clarification would result in the retention of more than is being retained currently, with the accompanying increase in storage costs. Ms. Mays asked how this would affect agency budgets. Robb thought COT would absorb the cost while rates for other services would rise. Myers noted that the disposition instructions as written would allow agencies to destroy correspondence prior to two years. Clarification of Series M0018, Reference and Informational Material, would allow for destruction of that transitory material. Robb said he thought it would be beneficial to table the revisions until staff at COT could review them in more detail.

Mr. Robb made a motion to table the schedule revisions pending further investigation of their implications by staff at the Commonwealth Office for Technology, seconded by Ms. Mays. The vote by the members and representatives present was unanimous.

The next item was **Other Business**.

Nelson recognized Belding, who noted that he had disseminated materials to commission members regarding the National Historical Publications and Records Commission (NHPRC), which is the grant-funding unit of the National Archives. The NHPRC has benefited not only Kentucky, but all other states as well. Grants are made through State Historical Records Advisory Boards and generally go toward preservation of records of historical interest. Various public and private institutions throughout Kentucky have received these grants. The NHPRC has been zero-funded in the President's budget, as it was last year. This is a small program, only \$7,000,000 for the entire country, but one with far-reaching effects. The handout explains what is at risk and how to make contacts and to express support for funding of NHPRC.

Ms. Dennis made a motion to have department staff draft a resolution on behalf of the commission in support of NHPRC funding, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

Belding also noted the dissemination to commission members of a legislative tracking document assembled by the department. This document tracks bills before the legislature that have records management implications, so that action can be taken soon after passage, if bills are approved. These include bills that affect agency functions or institute organizational changes; bills that have implications for public access to public records; bills that have implications for electronic records; and bills that create or charge a body to report on a given issue or incident.

Belding also noted that the department's request for a facility expansion had been reviewed by the Capital Planning Advisory Board. The department's request was one of those recommended for funding in the board's November report. The request was not included in the Governor's budget, though it was included in the House Committee substitute approved in March.

Nelson moved on to **Local Records Grants Review**.

He recognized Carlton who gave a brief explanation of the grants program, which has given out \$11,000,000-\$12,000,000 since the program's inception in 1984. The money has gone for records management-related projects, most of which have entailed microfilming of permanently-valuable local government records. This round of grants actually entailed fewer microfilming projects because of the small number of microfilming vendors available to do the work. This round's requests total \$405,711.00 out of a total of \$430,000 to be granted. The remainder would be given out in the June grant cycle. Most of the funds this cycle would go toward electronic projects of some type, mainly backfile conversion of paper records to electronic images.

In response to a question by Dennis, Carlton said that amounts requested are increased for micrographics projects, to cover associated film duplication and quality control costs. In response to a question by Ms. McAninch concerning denial of grants, Carlton said that Local Records staff

Records staff divides the state into four regions, and needs and other issues being equal, staff tries to distribute grant money equally among the four regions. Grants are also based on need. Requests to fund certain projects, such as those involving conservation work on original records that have been microfilmed, may not be as pressing as others.

Ms. Smith made a recommendation that the slate of grants be approved by Commissioner Nelson, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

There being no further business, Nelson adjourned the meeting at approximately 12:10.